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ELECTORS/GREAT SEAL

Request for a Declaratory Ruling on if a Digital Currency Exchange could be a valid Secondary Depository, under Section 169.221 Part 6 of the Michigan Campaign Finance Act, for the purpose of accepting Digital Currency donations during a campaign.

Requested by: William Baker
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For the Michigan Department of State
Bureau of Elections
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It is my intent to provide sufficient evidence so that a Digital Currency Exchange may be ruled as a valid secondary depository as described in Sec. 169.221 Part 6 of the MCFA, which would allow for my campaign, and all future political committees, to collect donations of Digital Currencies (a.k.a. Cryptocurrencies).

Definitions:

Contribution: "Contribution" means a payment, gift, subscription, assessment, expenditure, contract, payment for services, dues, advance, forbearance, loan, or donation of money or *anything of ascertainable monetary value*, or a transfer of anything of ascertainable monetary value to a person, made for the purpose of influencing the nomination or election of a candidate, for the qualification, passage, or defeat of a ballot question, or for the qualification of a new political party. (From the MCFA, emphasis added.)

Digital Currency (a.k.a. Cryptocurrency): A digital or cryptocurrency is a currency that uses cryptography for security. While Bitcoin was the first, and remains the largest and most known, digital currency, there are roughly 1,900 different digital currencies in the world as of this writing.

Digital Currency Exchange (DCE): A digital currency exchange (DCE) is a market that exchanges legal tender for digital currency, or that exchanges one digital currency for another. Most exchanges happen online rather than at physical locations. A DCE normally charges a commission for this type of transaction.

Market Sale: A market sale is a request to sell an item at the best available price in the current market. For many large digital currencies exchanges, market orders fill nearly instantaneously.

Axiom:

The existence of exchanges that convert digital currencies into legal tender, means that digital currencies maintain an “ascertainable monetary value.” Therefore, digital currencies are a valid form of political contribution under MCFA Section 169.204 Part 1.

Argument:

I posit that a DCE which allows individuals and businesses to maintain accounts for the collection and exchange of digital currencies into legal tender would be a valid secondary depository; so long as the DCE additionally allows for the transfer of legal tender from these accounts to other financial institutions (the official depository of the committee).

While it should be self-evident that digital currencies are a valid way to receive political contributions, the main issues yet to be resolved are how to record their value and how to use them once they have been received. This is why I am requesting that DCE’s which allow for the transfer of legal tender between themselves and other financial institutions be classified as valid Secondary Depositories.

The first thing to note is that per Sec. 169.221 Part 6 - Secondary depositories shall be used for the sole purpose of depositing contributions and promptly transferring the deposits to the committee’s official depository. Here, we see that one main condition of an appropriate depository is the prompt transfer of deposits. Therefore, so long as a DCE allows for the transfer of legal tender to the committee’s official depository, in a timely manner, it meets this condition.

Next, I will discuss the process of exchanging a digital currency for legal tender. The quickest way is by placing a market order to sell. On any sizable exchange, the main digital currencies always have clients who are willing to buy or sell them, and any market order is filled nearly instantaneously; additionally, most exchanges operate around the clock with little down time. As such, this provides us with a reasonable way to obtain the market value of the digital currency at the time of sale. Additionally, this is the amount, minus any exchange fees, is what the committee will be transferring back to the official depository.

Lastly, I wish to note several items that may cause confusion to any who is new to dealing with digital currencies, and comment on how standard practices would be applied.

-While several digital currencies are known for allowing individuals to engage in transactions without disclosing any information, it will still be up to the political committee to record the information of anyone providing a donation.

-A DCE may charge a fee for the service of exchanging digital currencies for legal tender, however, these fees should be seen as similar to the fees charged by depositories for the collection and transfer of funds when individuals donate by using their credit card on a website.

-Due to price volatility, it is possible that while a donor thought they were donating \$1,000 worth of a digital currency, but by the time the donating was exchanged, the donation was valued either higher or lower. Should the unit price rise, causing the contribution to be worth more than the stated limitations in Sec. 169.252 should be handled in the same manner as any other attempt to contribute more than the stated amounts.

In conclusion, while digital currencies may not be at a point where they can be used in most places at most times, they are at a point where politicians and political committees can begin to receive them as contributions for their campaigns. There exists several sizable US based DCE's that permit the timely exchange of some digital currencies into legal tender and allow for the transfer of those funds to main stream financial institutions. With some modest record keeping, donations of digital currencies can be an additional method of raising funds for political campaigns in the coming years, just as the internet first allowed political based websites to collect credit card donations roughly twenty to twenty-five years ago.

Thank you for your time and consideration on this matter. If you have any questions, you may reach me at:

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The following websites were used as a basis of some of the information presented here.

Investopedia: Cryptocurrency

<https://www.investopedia.com/terms/c/cryptocurrency.asp>

Investopedia: Digital Currency Exchanger (DCE)

<https://www.investopedia.com/terms/d/digital-currency-exchanger-dce.asp>

Investopedia: Market Order

<https://www.investopedia.com/terms/m/marketorder.asp>

And finally, as an example of a US based DCE that allows transferring legal tender to and from any standard US based financial institution, and the exchange that I personally use for investing/trading:

Gemini

<https://gemini.com>